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13 Attorneys for Defendants NBCUniversal Media, LLC,  
14 erroneously sued as “NBCUniversal, Inc.”; O’Shea Jackson Sr.,  
15 p/k/a Ice Cube; Andre Young, p/k/a Dr. Dre; The Estate of Eric  
16 Wright, p/k/a Eazy E; Tomica Woods-Wright, individually and  
17 as the personal representative of The Estate of Eric Wright;  
18 Comptown Records, Inc.; Xenon Pictures, Inc., sued as “Xenon  
19 Pictures, Inc./Xenon Entertainment Group;” Jonathan Herman;  
20 Andrea Berloff; S. Leigh Savidge; and Alan Wenkus

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**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION**

1 GERALD E. HELLER, an individual,  
2 Plaintiff,  
3 vs.  
4 NBCUNIVERSAL, INC., et al.,  
5 Defendants.

6 CASE NO. 2:15-cv-09631-MWF-KS  
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**NOTICE OF MOTION AND MOTION**  
**TO STRIKE ALLEGATIONS OF NON-**  
**ACTIONABLE CONDUCT IN THE**  
**SECOND AMENDED COMPLAINT**  
**PURSUANT TO FED. R. CIV. P. 12(f);**  
**MEMORANDUM OF POINTS AND**  
**AUTHORITIES**

14 [Proposed Order lodged concurrently]

15 Date: June 27, 2016

16 Time: 10:00 a.m.

17 Courtroom: 1600

18 Action Removed: December 15, 2015

1 TO PLAINTIFF AND HIS ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that, on June 27, 2016, at 10:00 a.m. in Courtroom  
3 1600 of the above-captioned Court, located at 312 North Spring Street, Los Angeles,  
4 California, Defendants NBCUniversal Media, LLC, erroneously sued as “NBCUniversal,  
5 Inc.;” O’Shea Jackson Sr., p/k/a Ice Cube; Andre Young, p/k/a Dr. Dre; Tomica Woods-  
6 Wright, individually and as the personal representative of The Estate of Eric Wright;  
7 Jonathan Herman; Andrea Berloff; S. Leigh Savidge; and Alan Wenkus (collectively  
8 “Defendants”) will and hereby do move pursuant to Fed. R. Civ. P. 12(f) to strike  
9 allegations of non-actionable conduct in the Second Amended Complaint (“SAC”).

10 The allegations Defendants ask the Court to strike are found at pages 7:24-18:28  
11 and 19:1-5.

12 This Motion is based on this Notice, the attached Memorandum of Points and  
13 Authorities, the Request for Judicial Notice and the Declaration of Vincent H. Chieffo  
14 filed in support of Defendants’ concurrent Anti-SLAPP Motion and the documents  
15 attached thereto, which are either referenced in the SAC and are not subject to dispute as  
16 to authenticity, or are the proper subject of judicial notice by this Court, the concurrent  
17 Anti-SLAPP Motion, and on any other matter the Court may properly consider.

18 This Motion is made following the conference of counsel pursuant to L.R. 7-3  
19 which took place on May 18, 2016.

20 DATED: May 25, 2016

GREENBERG TRAURIG, LLP

21 By: /s/ Jeff E. Scott

22 Jeff E. Scott

23 Attorneys for Defendants NBCUniversal Media,  
24 LLC, erroneously sued as “NBCUniversal, Inc.;”  
25 O’Shea Jackson Sr., p/k/a Ice Cube; Andre Young,  
26 p/k/a Dr. Dre; The Estate of Eric Wright, p/k/a  
27 Eazy E; Tomica Woods-Wright, individually and  
28 as the personal representative of The Estate of Eric  
Wright; Comptown Records, Inc.; Xenon Pictures,  
Inc., sued as “Xenon Pictures, Inc./Xenon  
Entertainment Group;” Jonathan Herman; Andrea  
Berloff; S. Leigh Savidge; and Alan Wenkus

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1                   **MEMORANDUM OF POINTS AND AUTHORITIES**

2                   **I.     INTRODUCTION AND SUMMARY OF MOTION**

3                  The Court will only need to adjudicate the merits of this Motion if Defendants' 4 concurrent Anti-SLAPP Motion is denied. If the Anti-SLAPP Motion is granted, this 5 Motion will be moot. Therefore, Defendants request that the Court review the Anti- 6 SLAPP Motion first.

7                  The Anti-SLAPP Motion challenges Plaintiff's First Claim for Defamation. The 8 Defamation Claim is based on alleged implications drawn by Plaintiff from certain 9 quoted dialogue in the Film. As shown in the Anti-SLAPP Motion, neither the 10 implications nor dialogue is actionable under the First Amendment or the law governing 11 defamation claims. However, to the extent the Court finds that some of the implications 12 or dialogue potentially are actionable, this Motion requests that the Court strike the 13 remaining implications and dialogue that it finds not to be actionable. This mechanism 14 will serve Rule 12(f)'s purpose of streamlining this matter for further litigation.

15                   **II.    RELEVANT FACTS**

16                  The relevant facts are summarized below and set forth in more detail in the Anti- 17 SLAPP Motion. In sum, in Plaintiff's third iteration of its Complaint, the Second 18 Amended Complaint ("SAC"), Plaintiff for the first time identifies the scenes in the Film 19 that he claims are defamatory. The scenes are identified in quotations of dialogue from 20 the Film ("Dialogue"), and preceded by the implications Plaintiff draws from that 21 Dialogue ("Implications"). The Dialogue and Implications are set forth on pages 7-18 of 22 the SAC.

23                  Because the Film depicts in a docudrama decades-old public controversies, 24 Defendants argue in the Anti-SLAPP Motion that the Film—including all challenged 25 scenes—is absolutely protected by the First Amendment. The Anti-SLAPP Motion then 26 breaks down and analyzes, Implication by Implication and quote by quote, why none of 27 the challenged material is actionable. To avoid burdening the Court with redundant 28 arguments, Defendants do not repeat those arguments here in full. Rather, Defendants

1 incorporate them herein by reference and, in the Argument section below, summarize  
 2 each reason why the Implications and corresponding Dialogue are not actionable.

### 3           **III. ARGUMENT**

#### 4           **A. Rule 12(f) Standards**

5           Rule 12(f) of the Federal Rules of Civil Procedure allows a court to strike “from a  
 6 pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous  
 7 matter.” Fed. R. Civ. P. 12(f). “[T]he function of a 12(f) motion to strike is to avoid the  
 8 expenditure of time and money that must arise from litigating spurious issues by  
 9 dispensing with those issues prior to trial ....” *Whittlestone, Inc. v. Handi-Craft Co.*, 618  
 10 F.3d 970, 973 (9th Cir. 2010). A district court enjoys broad discretion to grant a motion  
 11 to strike. *See Vess v. Bank of Am., N.A.*, No. 10CV920-AJB (WVG). 2012 WL 113748,  
 12 at\*12 (S.D. Cal. Jan. 13, 2012) (“[W]hether to grant a motion to strike is within the broad  
 13 discretion of the district court.”); *Yufa v. Met One Instruments, Inc.*, No. 1:08-CV-3016-  
 14 CL, 2012 WL 7188851, at \*2 (D. Or. Dec. 20, 2012) *report and recommendation*  
 15 *adopted*, No. 1:08-CV-3016-CL, 2013 WL 663594 (D. Or. Feb. 21, 2013) (same).

16           Under Rule 12(f), “immaterial matter” has “no essential or important relationship  
 17 to the claim for relief.” *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th Cir. 1993),  
 18 *rev’d* on other grounds, 510 U.S. 517 (1994). “‘Impertinent’ has been defined as  
 19 allegations that are not responsive or irrelevant to the issues that arise in the action, and  
 20 which are inadmissible as evidence.” *In re 2TheMart.com, Inc. Sec. Litig.*, 114 F. Supp.  
 21 2d 955, 965 (C.D. Cal. 2000). “Scandalous” allegations include those that cast a cruelly  
 22 derogatory light on a party or other person. *See Survivor Prods. LLC v. Fox*  
 23 *Broadcasting Co.*, No. CV01-3234 LGB (SHx), 2001 WL 35829267, at \*3 (C.D. Cal  
 24 June 12, 2001).

25           The allegations Defendants seek to strike fall into one or more of the categories  
 26 proscribed by Rule 12(f), and thus the Court should strike these portions of the SAC.

1     **B. The Court Should Strike All Non-Actionable Matter On Pages 7-18 And 24.**

2         As set forth in the Anti-SLAPP Motion, each of the Implications and Dialogue is  
 3 not actionable for up to four reasons: (1) the Dialogue does not support the Implications  
 4 Plaintiff draws; (2) the Dialogue is comprised of expressions of non-actionable opinion;  
 5 (3) the Implications are not reasonably capable of sustaining defamatory meaning; and  
 6 (4) the challenged statements are substantially true. Defendants address each Implication  
 7 and corresponding Dialogue below, in the order addressed in the Anti-SLAPP Motion,  
 8 summarize the reasons why none is actionable as more fully discussed in that Motion,  
 9 and identify by page and line number the underlying allegations that should be stricken.<sup>1</sup>

10         **1. Implications On Pages 7, 9, 12 And 14:9-10**

11         The alleged Implications at pages 7, 9 and 12 are:

- 12             • “Heller is the bad-guy or villain in the movie who could not be trusted.”  
 13                     (SAC at 7:24-27);
- 14             • “Dr. Dre accuses Heller of stealing money and says that Ice Cube was right  
 15                     about him.” (*Id.* at 7:28);
- 16             • “Heller is a sleazy manager who took advantage of Defendants Eazy E, Dr.  
 17                     Dre and Ice Cube, effectively, by stealing their money.” (*Id.* at 9:1-3); and
- 18             • “Heller induced Dr. Dre to sign an unfavorable contract.” (*Id.* at 12:25-26.)

19         For the reasons discussed in the Anti-SLAPP Motion, the first three Implications,  
 20 to the effect that Plaintiff was “stealing money” from Dr. Dre and Ice Cube, are not  
 21 reasonably supported by the corresponding Dialogue at pages 8:1-28; 9:6-28; 10:1-6, 17-  
 22 28; 11:1-28 and 12:1-23.<sup>2</sup> *See Dodds v. Am. Broad. Co.*, 145 F.3d 1053, 1066 (9th Cir.  
 23 1998); *accord, Thomas v. Los Angeles Times Commc’ns, LLC*, 189 F. Supp. 2d 1005,  
 24 1013 (C.D. Cal.), *aff’d*, 45 F. App’x. 801 (9th Cir. 2002), (affirming dismissal of claim

25         <sup>1</sup> This information also will be reflected in the accompanying Proposed Order.

26         <sup>2</sup> Attached as Exhibit 22 to the Chieffo Declaration in support of the Anti-SLAPP  
 27 Motion is a chart providing a side-by-side comparison of each set of alleged Implications  
 28 with the quoted Dialogue purportedly supporting that set of putative Implications, in the  
 order in which they are analyzed in the Anti-SLAPP Motion.

1 that the defendant had implied, although not expressly stated, the plaintiff had engaged in  
 2 criminal activity and a cover-up of his activities, because “we do not believe that a  
 3 reasonable fact finder could find that [defendant’s] statements conveyed any such  
 4 implication”). Because Plaintiff cannot satisfy his burden of showing that the quoted  
 5 Dialogue reasonably implies he was stealing money, then these three alleged Implications  
 6 are all non-actionable opinions about Plaintiff’s performance as a business manager: *i.e.*,  
 7 Plaintiff “is the bad-guy or villain in the movie,” “cannot be trusted,” “is a sleazy  
 8 manager,” and “took advantage of Defendants.” These Implications are not actionable  
 9 because they reflect only “subjective evaluations” of a professional’s performance and  
 10 are “not susceptible of being verified as true or false.” *Partington v. Bugliosi*, 56 F.3d  
 11 1147, 1158 (9th Cir. 1995).

12       Similarly, the alleged Implication on page 12 that Plaintiff “induced Dr. Dre to  
 13 sign an unfavorable contract” is an opinion not provably true or false. The allegedly  
 14 supporting Dialogue at page 13:1-13 reflects a classic difference of opinion over whether  
 15 a contract is or is not favorable to one contracting party or the other. Such statements “do  
 16 not imply the assertion of an objective fact” and “are not capable of being proved true or  
 17 false.” *Partington*, 56 F.3d at 1153.

18       In addition, the Dialogue on pages 8-12 allegedly supporting the Implications at  
 19 pages 7 and 9 (depicting Ice Cube and Dr. Dre articulating their *accusations of*  
 20 “sleaziness” and stealing) is at least substantially true. Plaintiff admits in his Memoir that  
 21 Ice Cube and Dr. Dre were constantly complaining about what they were getting paid,  
 22 and had “lied publicly” that Plaintiff “had stolen money from them” and “cheated them.”  
 23 (First RJD Exh. 2 [Memoir, at pp. 9, 157-58, 180-81, 187-88, 192, 292, 294].)<sup>3</sup> *See Stilts*  
 24 *v. Globe Int’l, Inc.*, 91 F.3d 144 (6th Cir. 1996) (article was as a matter of law  
 25 “substantially true” because a reasonable reader would understand the article was  
 26 describing *an undisputed “controversy that exists between [the famous music group] the*

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27  
 28 <sup>3</sup> “First RJD” refers to the first Request for Judicial Notice filed in support of  
 Defendants’ initial Anti-SLAPP Motion (Dkt. No. 21-8).

1     *Judds and [their manager] Stilts concerning their mutual business affairs and the hard  
2 feelings between the Judds and Stilts")* (emphasis added).

3         Finally, the alleged Implication at page 14:9-10 (about Plaintiff enjoying “lobster  
4 brunches” while members of N.W.A. ate fast food), and Dialogue at page 14:12-22, are  
5 classic protected hyperbole and dramatization, particularly in the context of a docudrama  
6 like the Film. *Partington*, 56 F.3d at 1155 (“Docudramas, as their names suggests, often  
7 rely heavily upon dramatic interpretations of events and dialogue filled with rhetorical  
8 flourishes in order to capture and maintain the interest of their audience. We believe that  
9 viewers in this case would be sufficiently familiar with this genre to avoid assuming that  
10 all statements within them represent assertions of verifiable facts.”).

11         Accordingly, the Implications and corresponding Dialogue at pages 7:24-28; 8:1-  
12 28; 9:1-28; 10:1-5, 17-28; 11:1-28; 12:1-23, 13:1-13; 14:9-10 and 14:22 should be  
13 stricken.

14         **2. Implications On Pages 10 And 14:23-25**

15         These are:

- 16             • “Heller steered Dr. Dre and Ice Cube away from hiring an attorney to  
17 review any contracts so they could never get paid;” (SAC at 10:7-9);
- 18             • “Heller made sure he was paid more than his fair share to the detriment of  
19 the other members of N.W.A.;” (*Id.* at 10:9-11);
- 20             • “Heller did not pay numerous bills and expenses of N.W.A., rather, he paid  
21 himself first;” (*Id.* at 10:11-13);
- 22             • “Heller intentionally kept the members of N.W.A. in the dark regarding  
23 finances;” (*Id.* at 10:13-14);
- 24             • “Heller intentionally withheld a \$75,000 check from Ice Cube that  
25 rightfully belonged to Ice Cube;” (*Id.* at 10:14-16) and
- 26             • Ice Cube states in an interview at his home that the Jewish Defense League  
27 should not condone Heller’s behavior in trying to get him to sign a contract  
28 without his attorney’s review. (*Id.* at 14:23-26).

1       The second, third and fourth of the six alleged Implications quoted immediately  
 2 above (about Plaintiff paying himself first, or more, and “intentionally” keeping N.W.A.  
 3 “in the dark regarding finances”) cannot be reasonably inferred from the quoted  
 4 Dialogue on pages 10-12 of the SAC. None of those words says or implies anything at  
 5 all about payments to Plaintiff, let alone whether those payments were for “more than  
 6 his fair share.” Nor is there any suggestion that Plaintiff *intentionally* kept N.W.A. “in  
 7 the dark.” The Dialogue quoted in lines 1-8 on page 12 of the SAC depicts the Film’s  
 8 Heller character rebuking Ice Cube for ignoring that N.W.A.’s expenses are paid by  
 9 Ruthless. Such a rebuke by the Heller character is inconsistent with Plaintiff having  
 10 “intentionally” hidden from Ice Cube what the Heller character tells Ice Cube he should  
 11 already know. Therefore, the alleged Implication is not “reasonably capable of  
 12 sustaining that meaning” attributed to the quoted Dialogue. *Dodds*, 145 F.3d at 1063.

13       As to the first and sixth of these Implications (regarding Plaintiff allegedly  
 14 steering Dr. Dre and Ice Cube away from attorneys), the Dialogue relied upon by  
 15 Plaintiff for these alleged Implications, at pages 10-12 of the SAC, consists solely of  
 16 statements by or to Ice Cube, making no reference at all to Dr. Dre. Thus, the Dialogue  
 17 supports no implication that Plaintiff steered Dr. Dre away from hiring an attorney.

18       As to Ice Cube, Plaintiff admits that, *unlike* Dr. Dre, Plaintiff never represented  
 19 Ice Cube (SAC at ¶¶ 19-20).<sup>4</sup> Therefore, Plaintiff owed no ethical or other obligation to

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20       <sup>4</sup> Even if this Dialogue between the Ice Cube and Heller characters somehow implied  
 21 Plaintiff had also tried to steer Dr. Dre away from hiring an attorney (and it does not),  
 22 any suggestion of impropriety would result from Plaintiff’s indisputable conflict of  
 23 interest in negotiating with Dr. Dre as Ruthless’ manager at the same time Plaintiff  
 24 admits he also was representing Dr. Dre as his manager – a relationship Plaintiff admits  
 25 he did *not* have with Ice Cube. (SAC at ¶¶ 19-20; First RJN Exh. 2 [Memoir, at p. 22].)  
 26 Any defamatory implication from those undisputed non-actionable disclosed facts cannot  
 27 itself be actionable. *Dodds*, 145 F.3d at 1067 (“an opinion based on an implication  
 28 arising from disclosed facts is not actionable when the disclosed facts themselves are not  
 actionable”); *J-M Mfg. Co., Inc. v. Phillips & Cohen, LLP*, No. B256927, 2016 WL  
 1757286, at \*7 (Cal. Ct. App. May 2, 2016) (“statement is not considered false unless it  
 would have a different effect on the mind of the reader from that which the truth would  
 have produced”), quoting, *Carver v. Bonds*. 135 Cal. App. 4th 328, 344-45 (2005).

1 represent the interests of Ice Cube in this negotiation, and it is not defamatory to say or  
 2 imply that the manager of Ruthless discouraged Ice Cube from hiring an attorney to  
 3 negotiate against him. Accordingly, the only even potentially defamatory aspect of this  
 4 alleged Implication would be the opinion that Plaintiff's subjective motive in  
 5 discouraging Ice Cube from hiring an attorney was "so they could never get paid."  
 6 However, nowhere in the Dialogue from the contract scene between the Ice Cube and  
 7 Heller characters is there any statement or suggestion that Plaintiff's motive in steering  
 8 Ice Cube away from hiring an attorney was to prevent him from getting paid. He only  
 9 tells Ice Cube that attorneys "are paid to make trouble. They're gonna create problems  
 10 where no problems exist." (SAC at 10:27-28 and 11:1-2.) Many, if not most, viewers of  
 11 the Film would probably agree with that, and certainly would not believe such Dialogue  
 12 defames the reputation of Ruthless' manager. *Knievel v. ESPN*, 393 F.3d 1068, 1074  
 13 (9th Cir. 2005) ("courts must interpret that statement from the standpoint of the average  
 14 reader").<sup>5</sup> Moreover, the quoted Dialogue plainly shows that Ice Cube declined to sign  
 15 without having his attorney review it, so there is no suggestion that he signed anything  
 16 without advice of counsel.

17 The final Implication analyzed here (the fifth bullet point) is that "Heller  
 18 intentionally withheld a \$75,000 check from Ice Cube that rightfully belonged to him."  
 19 However, the corresponding Dialogue from the contract scene with the Heller and Ice  
 20 Cube characters only reflects the Heller character telling Ice Cube that money that would  
 21 be contractually owed to him under a proposed contract will be paid to him as soon as he  
 22 signs that contract: "Sign the contract, then all this money is yours." (SAC at 11:14-15.)  
 23 Nowhere does the Heller character threaten that Ice Cube will never receive any money  
 24 at all from Ruthless if he does not sign that contract, and Plaintiff does not allege  
 25  
 26

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27   <sup>5</sup> The Heller character also tells Ice Cube in this Dialogue that Ice Cube is the only  
 28 member of N.W.A. who had not signed a contract, but Plaintiff does not and cannot  
 allege that statement to be false or defamatory. (First RJN Exh. 2 [Memoir, at p. 138].)

1 otherwise.<sup>6</sup> Ice Cube's demand, "Give me my money, Jerry," after insisting "I earned  
 2 that money" (SAC at 11:17-18 and 27), only reflects Ice Cube's contrary opinion that the  
 3 \$75,000 "rightfully belongs to him" *now*, irrespective of whether he signs the contract,  
 4 and that he should therefore immediately be paid the full \$75,000 even if he lacked that  
 5 contractual right.

6 Moreover, this Dialogue is substantially true, as Plaintiff concedes: "Ruthless  
 7 paid out seventy-five-thousand-dollar checks to each band member, ***contingent on them***  
 8 ***officially signing with the label.*** Everyone signed except Cube." (First RJD Exh. 2  
 9 [Memoir, at p. 138]) (emphasis added).

10 In any event, this dramatization of an ambiguous controversial dispute between  
 11 two public figures is protected speech under the First Amendment, because when  
 12 producers of docudramas are "giving an account of inherently ambiguous materials or  
 13 subject matter, the First Amendment requires that the courts allow latitude for  
 14 interpretation." *Partington*, 56 F.3d at 1154.

15 Thus, the alleged Implications and allegedly supporting Dialogue at pages 10:7-28;  
 16 11:1-28; 12:1-23; 14:23-26 and 15:1-15 should be stricken.

17       **3. The Implication On Page 13**

18 Here, Plaintiff alleges: "Heller abandoned Dr. Dre and the D.O.C. after his car  
 19 accident, but Suge Knight stepped in to take care of them[.]" (SAC at 13:14-16.)  
 20 However, the quoted Dialogue neither says nor reasonably implies anything like that.  
 21 (*Id.* at 13:19-14:-8) (e.g., "Where Eazy and Jerry?", and receiving the response, "How  
 22 the fuck should I know?"). It is not reasonable to imply from this Dialogue that "Heller  
 23 abandoned Dr. Dre and the D.O.C. after his car accident." *Dodds*, 145 F.3d at 1063.

24 Similarly, Dr. Dre asking Suge Knight if his "people" could take a look at Dr.  
 25 Dre's paperwork only after Suge Knight repeatedly asks him what he thinks of Plaintiff,  
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27       <sup>6</sup> Plaintiff admits that Ruthless entered into an exclusive recording contract and "a series  
 28 of exclusive music publishing contracts with Defendants Eazy E, Dr. Dre and Ice Cube."  
 (SAC at ¶¶ 20, 21.)

1 and if he is “cool with” his “paperwork,” cannot reasonably imply that Suge Knight  
 2 “stepped in to take care of them.” It just as logically suggests that a rival record company  
 3 executive (very unfavorably depicted in the Film) was trying to break up N.W.A. by  
 4 moving Dr. Dre to his record company. Moreover, Plaintiff contends that Suge Knight  
 5 was the D.O.C.’s “main guy” who “broke up the black Beatles, N.W.A.,” and that Dr.  
 6 Dre left N.W.A., and came under Knight’s “exclusive control,” after the D.O.C.  
 7 repeatedly told Dr. Dre that Ruthless, managed by Plaintiff, was “ripping him off.” (First  
 8 RJN Exh. 2 [Memoir, at pp. 6, 24-25, 187-88, 190-92, 203-05].) The admitted  
 9 substantial truth of this alleged Implication precludes it from being actionable  
 10 defamation. *Masson v. New Yorker Magazine, Inc.*, 501 U.S. 496, 516-17 (1991).

11 Accordingly, the alleged Implication and corresponding Dialogue at pages 13:14-  
 12 28 and 14:1-8 should be stricken.

#### 13       4.     The Implications On Pages 15-16

14 Plaintiff’s final two alleged Implications are that “Tomika [*sic*] Woods-Wright  
 15 tells Eazy-E that Heller took advantage of Heller [*sic*] and left him with 2-3 years of  
 16 unpaid bills” and that “Eazy-E fires Heller in Heller’s kitchen after accusing him of  
 17 illegal activity, and Heller says in his defense that Eazy-E screwed things up and that  
 18 Heller took actions to cover his own (rear end).” (SAC at 15, 16.) As explained in the  
 19 Anti-SLAPP Motion, these are controversies made public years ago, in prior litigation  
 20 and Plaintiff’s Memoir, the dramatization of which in the Film, a docudrama, is  
 21 absolutely protected by the First Amendment.

22 Regardless of whether Plaintiff did or did not mismanage Ruthless as alleged in  
 23 the Woods-Wright Complaint and in Eazy E’s hand-written memo to Plaintiff (attached  
 24 to Plaintiff’s 1997 Complaint),<sup>7</sup> at least two points cannot be genuinely disputed: (i)  
 25 both Plaintiff and Eazy E’s Estate acknowledged in their lawsuits that Plaintiff’s contract  
 26  
 27

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28       7 These two Complaints are attached to the First RJN as Exhibits 3 (1997 Complaint)  
          and 4 (Woods-Wright Complaint).

1 was terminated in 1995 before Eazy E died<sup>8</sup>; and (ii) each side publicly accused the other  
 2 of malfeasance. Regardless of whether the admitted termination of Plaintiff's services in  
 3 fact occurred in the venue and in the manner as depicted in the Film, the Film's  
 4 dramatization of the undisputed termination of Plaintiff taking place in a kitchen, and of  
 5 the admitted public accusations of fault and wrongdoing exchanged between public  
 6 figures, is not actionable: "When, as here, an author writing about a controversial  
 7 occurrence fairly describes the general events involved and offers his personal  
 8 perspective about some of its ambiguities and disputed facts, his statements should  
 9 generally be protected by the First Amendment." *Partington*, 56 F.3d at 1154.

10 Thus, the Implications and corresponding Dialogue at 15:16-28 and 16:1-18:13  
 11 should be stricken.

#### 12 IV. CONCLUSION

13 Based on the foregoing, and in the event the Court denies the Anti-SLAPP Motion,  
 14 the Court should strike the material identified above that it finds to be non-actionable.  
 15 The Court should also strike the corresponding matter at pages 18:14-28 and 19:1-5,  
 16 which frames the alleged Implications as "a list of facts" Defendants allegedly  
 17 misrepresented to defame Plaintiff.<sup>9</sup>

18 DATED: May 25, 2016

GREENBERG TRAURIG, LLP

19 By: /s/ Jeff E. Scott

Jeff E. Scott

20 Attorneys for Defendants NBCUniversal Media,  
 21 LLC, erroneously sued as "NBCUniversal, Inc.;"  
 22 O'Shea Jackson Sr., p/k/a Ice Cube; Andre Young,  
 23 p/k/a Dr. Dre; The Estate of Eric Wright, p/k/a  
 24 Eazy E; Tomica Woods-Wright, individually and  
 as the personal representative of The Estate of Eric

25  
 26 <sup>8</sup> First RJN Exh. 3 (1997 Complaint, at ¶ 65) and First RJN Exh. 4 (Woods-Wright  
 Complaint, at ¶12).

27  
 28 <sup>9</sup> For example, if the Court finds that the alleged Implication that Plaintiff "stole" money  
 is not actionable, the Court should strike the listed "fact" that Plaintiff "did not steal  
 money . . .," etc. This matter also will be listed in the accompanying Proposed Order.

1 Wright; Comptown Records, Inc.; Xenon Pictures,  
2 Inc., sued as “Xenon Pictures, Inc./Xenon  
3 Entertainment Group;” Jonathan Herman; Andrea  
4 Berloff; S. Leigh Savidge; and Alan Wenkus  
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